

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Date: 3.1.2005

CORAM

THE HONOURABLE MR. MARKANDEY KATJU, THE CHIEF JUSTICE

and

THE HONOURABLE MR. JUSTICE D. MURUGESAN

Writ Petition No.18595 of 2003

B. Veerakumar ... Petitioner

versus

1. The Secretary
Tamil Nadu Public Service
Commission,
Chennai-2.

2. The Under Secretary
Tamil Nadu Public Service
Commission,
Chennai-2.

.. Respondents

Writ Petition filed under Article 226 of the Constitution of India praying for the issue of writ of Certiorarified Mandamus to call for the records relating to the proceeding of the second respondent dated 30.6.2003 made in Memo No.3713/APD-C1/CJ/2003 quash the same and allow the petitioner to write competitive exam and participate in the process of the selection of civil judge by the respondents.

for petitioner : Mr. M. Devaraj

for respondents: Mr. Paul Vasanthakumar

ORDER

(Order of the Court was made by
The Hon'ble the Chief Justice)

The petitioner is blind. By means of this writ petition, the petitioner prayed for a writ of certiorari to quash the impugned order dated 30.6.2003 and has also prayed for a mandamus directing the respondents to allow the petitioner to participate in the selection for the post of Civil Judge held by the Tamil Nadu Public Service Commission.

2. Heard the learned counsel for the parties. By the order dated 30.6.2003, the petitioner's application for appearing in the written test for recruitment to the post of Civil Judge (Junior Division/Judicial Magistrate, First Class) in Tamil Nadu State Judicial Service Examination - 2003 was rejected on the ground that he does not possess four years experience as a lawyer on 1.7.2003 inasmuch as he is neither an Advocate nor coming under the service category enumerated in the relevant High Court order.

3. Admittedly, the petitioner was enrolled as an Advocate in the Bar Council of Tamil Nadu on 31.7.1991. He practised as an Advocate at Cuddalore in Tamil Nadu for ten years i.e. till November 2001 and thereafter he applied for and was selected and appointed as Law Officer in Allahabad Bank on 19.11.2001.

4. Learned counsel for the Tamil Nadu Public Service Commission has submitted that the petitioner was ineligible because under the relevant rules he must on the date of the notification be practising as an Advocate or Pleader and must have so practised for a period of not less than four years as on such date. Though the petitioner had practised for ten years from 1991 to 2001, but on the date of the notification i.e. 4.5.2003, he was not practising as an Advocate.

5. Learned counsel for the petitioner has invited our attention to the decision of the Supreme Court in Sushma Suri vs. Govt. of National Capital Territory of Delhi ((1999) 1 SCC 330) in which the Supreme Court has observed that a Law Officer of the Central or State Government, public corporation or of a body corporate, who is enrolled as an Advocate, has to be deemed to have been practising as a lawyer. Allahabad Bank is no doubt a public corporation or a body corporate and the petitioner being a Law Officer, has to be deemed to be a practising lawyer. Hence

we quash the impugned order dated 30.6.2003 and we direct that the petitioner be considered in accordance with the relevant rules including the rules for physically handicapped persons, if applicable, as expeditiously as possible.

6. We are informed that the petitioner in pursuance of an interim order appeared for the written examination and also the interview. We direct that the result be declared forthwith and if the petitioner is found suitable for appointment, he should be appointed if necessary by creating necessary post. The writ petition is disposed off. No costs.

3.1.2005

Vu

Sd/
Asst.Registrar

/true copy/

Sub Asst.Registrar

To

1. The Secretary
Tamil Nadu Public Service
Commission,
Chennai-2.
2. The Under Secretary
Tamil Nadu Public Service
Commission,
Chennai-2.

1 cc to Mr.M.Devaraj, Advocate, CCSR.161

1 cc to Mr.N.Paul Vasanthakumar, Advocate, CCSR.262

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W.P.No.18595 of 2003

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